

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:07CV123**

**WACHOVIA BANK, NATIONAL
ASSOCIATION and WACHOVIA
CAPITAL MARKETS, LLC**

Plaintiffs,

v.

**HARBINGER CAPITAL PARTNERS
MASTER FUND I, LTD. d/b/a
HARBINGER CAPITAL PARTNERS
MASTER FUND 1 d/b/a HARBINGER
CAPITAL PARTNERS MASTER FUND I;
AURELIUS CAPITAL MASTER, LTD.,
AURELIUS CAPITAL PARTNERS, LP,
LATIGO MASTER FUND, LTD.,
HARBINGER CAPITAL PARTNERS
OFFSHORE MANAGER, L.L.C.,
AURELIUS CAPITAL MANAGEMENT,
LP, AURELIUS CAPITAL GP, LLC,
LATIGO PARTNERS, L.P., TACONIC
OPPORTUNITY FUND L.P., SCHULTZE
MASTER FUND, LTD., UBS WILLOW
FUND, L.L.C., ARROW DISTRESSED
SECURITIES FUND, TACONIC
CAPITAL MANAGEMENT LLC, AND
BOND STREET CAPITAL LLC,**

Defendants.

**ORDER CONTINUING TEMPORARY
RESTRAINING ORDER
AND REMANDING ACTION**

This matter is before the Court on Plaintiffs' motion to continue in effect a Temporary Restraining Order entered by Mecklenburg County Superior Court Judge Robert Bell on March 14, 2007 (the "TRO"). While the TRO continues in effect after removal, *see* 28 U.S.C. § 1450, a proper removal divests the Mecklenburg County Superior Court of jurisdiction to extend the TRO or to proceed with the Preliminary Injunction Hearing. *See* 28 U.S.C § 1446(d). Since the


TRO was entered ex parte, it expires ten days after its entry (*i.e.*, on March 26, 2007) as a matter of North Carolina law. *See* N.C. R. Civ. P. 65.

The Court has determined that it has minimal "related to" jurisdiction over this action under 28 U.S.C. § 1334(b) but that the Court should abstain pursuant to 28 U.S.C. § 1334(c)(1), and, alternatively, that this action should be remanded to the Mecklenburg County Superior Court for equitable reasons under 28 U.S.C. §1452(b).

After hearing argument from both plaintiffs and defendants, including defendants' request for modification of the TRO, the Court has further determined that the TRO shall remain in effect, unmodified, for the shorter of (i) five business days from entry of this Order, or (ii) until a hearing on the Plaintiffs' pending motion for a Preliminary Injunction can be concluded by a Superior Court Judge.

Now, therefore, it is hereby ORDERED, ADJUDGED, and DECREED that the Temporary Restraining Order entered by Mecklenburg County Superior Court Judge Robert Bell in this action on March 14, 2007, shall be and is hereby continued in effect unmodified, and shall continue to restrain the Defendants and all of their officers, agents, servants, employees, attorneys, and all persons or entities acting in concert with them, according to its provisions, for the shorter of (i) five business days from entry of this Order, or (ii) until a hearing on the Plaintiffs' pending motion for a Preliminary Injunction can be concluded by a Superior Court Judge; and It is further ORDERED, ADJUDGED, and DECREED that this action be and is hereby remanded to the Mecklenburg County Superior Court immediately after the entry of this Order.

Dated: 3.23. 2007


Robert J. Conrad, Jr.
Chief United States District Court Judge
Western District of North Carolina